

April 11, 2008

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L07P0001**
Proposed Ordinance No. **2008-0132**

SKYLINE SUBDIVISION
Preliminary Plat Application

Location: 22215 – 116th Avenue Southeast, Kent

Applicant: **Navdeep Gill**
22403 – 94th Avenue South
Kent, Washington 98031

King County: Department of Development and Environmental Services (DDES)
represented by **Fereshteh Dehkordi**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7173
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve subject to conditions
Department's Final Recommendation:	Approve subject to conditions (modified)
Examiner's Decision:	Approve subject to conditions (modified)

EXAMINER PROCEEDINGS:

Hearing Opened:	April 3, 2008
Hearing Closed:	April 3, 2008

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES AND TOPICS ADDRESSED:

Traffic safety	Construction traffic	Sidewalk location
Adequacy of fire protection services	Safe walking conditions	Significant tree retention
Wildlife protection		

SUMMARY:

A subdivision of 10 lots in the urban area is approved subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Applicant:	Navdeep Gill 22403 94 th Ave South Kent, WA 98031
Engineer:	DBM Consulting Engineers 502 16 th Street NE, Suite 312 Auburn WA 98002 253-887-0924
STR:	08-22-05
Location:	22215 116 th Avenue SE, Kent
Zoning:	R-6
Acreage:	1.7 acres
Number of Lots:	10
Density:	Approximately 5.88 units per acre
Lot Size:	Approximately 3,000 – 6,300 square feet
Proposed Use:	Single Family Detached Dwellings
Sewage Disposal:	Soos Creek Water & Sewer District
Water Supply:	Soos Creek Water & Sewer District
Fire District:	King County Fire District No. 37
School District:	Kent School District
Complete Application Date:	June 12, 2007

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's (LUSD) preliminary report to the King County Hearing Examiner for the April 3, 2008 public hearing are found to be correct and are incorporated herein by this reference. The LUSD staff recommends approval of the application, subject to conditions.

The topography of the site gradually slopes from the west to the east, with slopes less than 15%.

3. The proposed plat is designed to be served with access at the northwest corner of the property, where Southeast 221st Place was extended to the south property line of the plat of Pederson Place to provide access to the subject property. Direct access to Skyline Plat from 116th Avenue Southeast would violate the King County Road Standards, intersection spacing standards, which require a minimum of 500 feet separation between intersections on minor arterial roads. 116th Avenue Southeast is a minor arterial.

Southeast 221st Place is constructed in accordance with King County Road Standards as a subaccess road. Subaccess roads are designed to serve approximately 900 average weekday vehicle trips. The combined traffic on Southeast 221st Place, with the addition of traffic to and from Skyline Plat, will be well below that threshold.

4. Construction traffic to and from Skyline Plat can have direct access from 116th Avenue Southeast. The DDES review engineer recommends that construction traffic be encouraged to utilize 116th Avenue Southeast for access, to the extent it can do so. This can be addressed during the review of final development plans and at construction meetings with the King County inspector.
5. The existing sidewalk within the Plat of Pederson Place extends to the Skyline property at the north side of the proposed extension of Southeast 221st Place. The sidewalk to be constructed within the Skyline Plat will be on the south side of Southeast 221st Place, where it will provide safer and more convenient access to the proposed lots within Skyline Plat. The safest crosswalk connection between the existing sidewalk and proposed sidewalk would be closer to the mid-point of the curve, to provide maximum visibility. Curb cuts to provide accessibility consistent with ADA will be required at the crosswalk location.
6. King County Fire Protection District No. 37 communicated with DDES by letter dated July 5, 2007, claiming in general terms that Fire District 37 does not have the needed resources to protect the proposed development of Skyline. Unless the applicant enters into a voluntary agreement to pay a mitigation fee to Fire District No. 37, the District opposes approval of this preliminary plat. However, no substantial evidence was presented that Fire District No. 37 does not have adequate facilities, equipment or personnel to provide fire protection and emergency services to this proposed development. The King County Fire Marshal has given preliminary approval to the proposed Skyline Plat development, subject to conditions for final approval.
7. The proposed plat will provide a sidewalk connection from all lots within the development to 116th Avenue Southeast. There are adequate sidewalks and shoulders between the proposed sidewalk connection at 116th Avenue Southeast and the elementary, junior high and senior high schools that will serve students residing in the proposed development.
8. There are significant trees located within the subject property. KCC 16.82.156 requires, within the R-6 zone in the urban growth area, that significant trees be retained at the rate of ten trees per acre or five percent of the trees, whichever is greater. Some significant trees are located at or near the perimeter of the subject property, where they buffer existing residential development on adjacent lots.

9. There is some wildlife use of the subject property, including birds, rodents, raccoons, and coyote. The King County code and state law do not protect wildlife, other than endangered species, in the urban area.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable and proportionate requirements necessary to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant on December 3, 2007, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.
5. The proposed access to Skyline Plat by way of Southeast 221st Place provides a safe access, consistent with King County road standards. Direct access from the subject property to 116th Avenue Southeast, except for use by construction traffic, would be inconsistent with King County road standards. Construction traffic should be encouraged to utilize direct access from 116th Avenue Southeast, to the extent it is possible to do so.
6. The sidewalk to be constructed on the south side of street "A" should be connected by crosswalk to the existing sidewalk in Pederson Place at a location close to the center of the curve, in order to provide enhanced visibility of the crosswalk from the north and east. DDES should consider eliminating extension of the Skyline Plat sidewalk west of the crosswalk and substituting shoulder improvement to match the shoulder in the Pederson Place development. The crosswalk should be provided with ADA ramps at both sidewalk connections.
7. Fire District No. 37 has not provided any evidence that its facilities, equipment or personnel are inadequate to provide fire and emergency service protection to the development. Approval given to this development by the King County Fire Marshal implies that fire protection services are available to the subject property.
8. Final engineering plans should demonstrate compliance with the provisions of Chapter 16.82 KCC for the retention of significant trees at the perimeter of the subject property. Review of final engineering plans by DDES should assure that no less than the minimum number of significant trees required to be retained by KCC 16.82.156 are identified and preserved during site development. To the extent feasible, this requirement should be met by retention of trees that will buffer existing residential development adjacent to the subject property.

9. No special protections for wildlife are required for this proposed development.

DECISION:

The proposed subdivision as revised and received December 3, 2007 is granted preliminary approval, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.

SPRINKLER REQUIREMENT

All future residences constructed within this subdivision are required to be sprinkled NFPA 13D unless the requirement is removed by the King County Fire Marshal or his/her designee. The Fire Code requires all portions of the exterior walls of structures to be within 150 feet (as a person would walk via an approved route around the building) from a minimum 20-foot wide, unobstructed driving surface. To qualify for removal of the sprinkler requirement driving surfaces between curbs must be a minimum of 28 feet in width when parking is allowed on one side of the roadway, and at least 36 feet in width when parking is permitted on both sides. No on-street parking will be permitted in the cul-de-sac.

FIRE HYDRANT WATERMAIN PERMITS

A separate permit is required for the installation of water mains and/or fire hydrants. Submit three (3) copies of drawings and specifications to DDES Building Services Division Permit Service Center for a permit application. Review and approval by Fire Engineering Section is required prior to installation. Plans shall include, but are not limited to; pipe sizes, pipe type, valves/fittings, thrust blocks and/or rodding and material listings. Fire hydrants shall be installed per K.C.C. Title 17

Water mains shall be installed and tested per AWWA standards and/or NFPA#24 (STANDARDS FOR PRIVATE FIRE HYDRANTS AND WATERMAINS); as applicable. Ref. 1001.4 UFC

6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 2005 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
7. The drainage facilities shall meet the requirements of the 2005 King County Surface Water Design Manual(KCSWDM). The drainage design shall meet at a minimum the Level III Flow Control and Basic Water Quality requirements in the KCSWDM.
8. To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.
9. The following road improvements are required to be constructed according to the 1993 King County Road Standards(KCRS):
 - a. The internal access road (Road A) shall be improved at a minimum to the urban minor access street standard. A permanent cul-de-sac shall be provided at the east end. Road A is proposed to connect to an existing stub road (SE 221st Pl) provided with the construction of the plat of Pederson Pl Div 1.

- i. The sidewalk on the south side of street “A” shall be connected at its west end with the Pederson Place sidewalk by a crosswalk located in the vicinity of the center of the curve, with both ends of the crosswalk served by ADA ramps. The sidewalk serving proposed lot 1, west of the crosswalk, may be transitioned to a shoulder improvement to match the existing shoulder within Pederson Place, if approved by DDES and the Department of Transportation.
 - ii. A public sidewalk connection from the east end of the cul-de-sac to the new sidewalk on 116th Ave SE shall be provided. Note that this connection is shown on the Preliminary Road and Storm Drainage Plan received December 3, 2007. This sidewalk connection may be modified to provide a more direct link to 116th Ave SE, subject to meeting ADA requirements.
 - b. The frontage along 116th Ave SE (west side) shall be improved at a minimum to the urban minor arterial street standard. This improvement shall also meet the overlay requirements in Section 4.01(f) of the KCRS.
 - c. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
 13. There shall be no direct vehicular access to or from 116th Ave SE from those lots which abut it. A note to this effect shall appear on the engineering plans and the final plat.
 14. The plant islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the final plat.
 15. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).

- a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, planting details, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans. In addition, fencing (chain link or split rail w/landscaping) shall be required around the perimeter of the recreation tract to preclude potential conflicts between recreation tract users and vehicles.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
- 16. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation tract. An easement shall be granted to King County for the maintenance of the drainage facility.
- 17. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if 116TH Ave SE is on a bus route. If so, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be

submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.

18. The applicant shall comply with KCC 16.82. This will require retention of not fewer than 17 or five percent of the significant trees, whichever is greater. To the extent feasible, significant trees retained should be those that buffer existing adjacent residential development.
19. At engineering plan review and preconstruction meeting(s), access to the subject property directly from 116th Avenue Southeast shall be considered by the review engineer and King County inspector and provided for, to the extent feasible, in the site construction planning.

ORDERED this 11th day of April, 2008.

James N. O'Connor
King County Hearing Examiner *pro tem*

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before April 25, 2008***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before May 1, 2008***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE APRIL 3, 2008, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L07P0001.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Fereshteh Dehkordi, Bruce Whittaker and Kristen Langley representing the Department; Brian Galloway representing the Applicant, and Danielle Guerin, Tim Tolonen, Kim Thompson and Sally Moore.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services file no. L07P0001
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report, dated April 3, 2008
- Exhibit No. 3 Application for Land Use Permits received January 8, 2007
- Exhibit No. 4 SEPA checklist received January 8, 2007
- Exhibit No. 5 SEPA Determination of Non-Significance issued February 15, 2008
- Exhibit No. 6 Affidavit of Posting indicating a posting date of June 29, 2007; received by DDES on July 5, 2007
- Exhibit No. 7 Preliminary Site Plan received December 3, 2007
- Exhibit No. 8 Preliminary Road and Storm Drainage Plan and Profile received December 3, 2007
- Exhibit No. 9 King County Department of Assessments Maps SE 8-22-05 and SW 09-22-05
- Exhibit No. 10 Technical Information Report dated November 30, 2007
- Exhibit No. 11 Certificate of Transportation Concurrency received January 8, 2007
- Exhibit No. 12 Wetland Reconnaissance Report dated October 22, 2007
- Exhibit No. 13 Letter from Larry Petersen dated August 13, 2007
- Exhibit No. 14 Letter from Carol Johnson dated August 5, 2007
- Exhibit No. 15 Letter from Tim and Laurie Tolonen dated July 17, 2007
- Exhibit No. 16 Letter from George F. Murray dated July 18, 2007
- Exhibit No. 17 Pederson Place Site Plan